

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

METACEL PHARMACEUTICALS
LLC,

Plaintiff,

v.

RUBICON RESEARCH PRIVATE
LIMITED,

Defendant.

Civil Action No.

21-cv-19463 (EP) (JRA)

ORDER

José R. Almonte, U.S.M.J.

Defendant Rubicon Research Private Limited's ("Defendant") having filed a motion for leave to file a motion for summary judgment ("Motion"), ECF Nos. 39, 40, 41;

and Plaintiff Metacel Pharmaceuticals LLC ("Plaintiff") having opposed Defendant's Motion, ECF No. 44;

and Defendant having filed a reply in further support of the Motion, ECF No. 48;

and the Court having reviewed the parties' submissions and deciding the application without oral argument, pursuant to Rule 78(b) of the Federal Rules of Civil Procedure and Rule 78.1(b) of the Local Civil Rules;

and Defendant arguing that its Abbreviated New Drug Application product "cannot be found to infringe, directly or indirectly," the claims of the patent at issue, ECF No. 40 at 2, ECF No. 50 at 2;

and Plaintiff arguing in response that discovery is ongoing, that the parties have yet to complete document discovery, and that Defendant has failed to produce samples and raw materials necessary for Plaintiff to evaluate its claim for infringement, ECF No. 44 at 9-10;

and Plaintiff noting that claim construction issues exist with respect to at least one claim term, ECF No. 44 at 10;

and the Court finding that the Motion is premature because the parties are still actively engaged in document discovery and because claim construction issues exist;

and the Court finding that, in the interest of judicial economy, summary judgment motions, if any, should be filed after a claim construction order is issued;

IT IS on this 20th day of September, 2022,

ORDERED that Defendant's motion for leave to file a summary judgment motion (ECF No. 39) is **DENIED without prejudice**.



HON. JOSÉ R. ALMONTE
UNITED STATES MAGISTRATE JUDGE